

PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

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Applicant's or agent's file reference P100461WO	FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/GB 03/02629	International filing date (day/month/year) 19.06.2003	Priority date (day/month/year) 22.06.2002
International Patent Classification (IPC) or both national classification and IPC F16L33/24		
Applicant OYSTERTEC PLC et al		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>
<p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the opinion II <input type="checkbox"/> Priority III <input checked="" type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 22.01.2004	Date of completion of this report 01.10.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Cross, A Telephone No. +49 89 2399-7092



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EXAMINATION REPORT**

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I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-22 as originally filed

Claims, Numbers

1-40 as originally filed

Drawings, Sheets

1/12-12/12 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings, sheets:

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5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

the entire international application,

claims Nos. 33-39

because:

the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

see separate sheet

the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

no international search report has been established for the said claims Nos.

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

the written form has not been furnished or does not comply with the Standard.

the computer readable form has not been furnished or does not comply with the Standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	13, 14, 18, 19, 22-27, 29, 30
	No: Claims	1-12, 15-17, 20, 21, 28
Inventive step (IS)	Yes: Claims	13, 14, 18, 19, 22-27, 29, 30
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-30
	No: Claims	

2. Citations and explanations

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Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

Claims 1 and 33 have been drafted as separate independent claims. Consequently, lack of clarity of the claims as a whole arises, since the plurality of independent claims makes it difficult, if not impossible, to determine the matter for which protection is sought, and places an undue burden on others seeking to establish the extent of the protection.

Hence, claims 1 and 33 do not meet the requirements of Article 6 PCT.

In order to overcome this objection, it would appear appropriate to file an amended set of claims defining the relevant subject-matter in terms of a single independent claim in each category followed by dependent claims covering features which are merely optional (Rule 6.4 PCT).

The following opinion will thus be based on the subject-matter of claim 1, its dependent claims and method claims 28-30.

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Claims 31, 32 and 40 contain references to the description and/or the drawings. According to Rule 6.2(a) PCT, claims should not contain such references except where absolutely necessary, which is not the case here. Thus, these claims should be deleted from the application.

Reference is made to the following document:

D1: DE 12 63 420 B (AEROQUIP AG) 14 March 1968 (1968-03-14)

Document D1 discloses (the references in parentheses applying to this document):

a device (10) suitable for restricting removal from the end of a tubular member (62) of a collar or the like (54) located on the tubular member (Fig. 2), the device comprising an axially extending portion (16) suitable for engagement in the end of the tubular member (Fig. 2) and a radially outwardly extending portion (32) which

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in use is located outside the end of the tubular member and which extends radially outwardly to a greater diameter than the internal diameter of the collar (Fig. 2), thereby to restrict removal of the collar from the end of the tubular member.

Therefore, the subject-matter of claim 1 is not new (Article 33(2) PCT).

Using similar argumentation, it can be seen that the subject-matter of the corresponding independent method claim 28 is also not new (Article 33(2) PCT).

Dependent claims 2 and 3 describe further details of features which are merely functional features in the independent claim 1 and as such do not form part of the subject-matter of claim 1. Thus, claims 2 and 3 do not comprise any additional subject-matter over that claimed in claim 1, and as such are also not new (Article 33(2) PCT).

The dependent claims 4-27, 29 and 30 do not appear to contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Articles 33(2) and (3) PCT).